BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of **ALAN C. SCHOLD, M.D.** License No. 29169 For the Practice of Allopathic Medicine In the State of Arizona.	Case No. MD-12-0751A **ORDER FOR LETTER OF REPRIMAND, PRACTICE RESTRICTION AND PROBATION AND CONSENT TO SAME**

Alan C. Schold, M.D. ("Respondent") elects to permanently waive any right to a hearing and appeal with respect to this Order for Letter of Reprimand, Practice Restriction and Probation; admits the jurisdiction of the Arizona Medical Board; and consents to the entry of this Order by the Board.

FINDINGS OF FACT

1. The Arizona Medical Board is the duly constituted authority for the regulation and control of the practice of allopathic medicine in the State of Arizona.

2. Respondent is the holder of license number 29169 for the practice of allopathic medicine in the State of Arizona.

3. The Arizona Medical Board initiated case number MD-12-0751A after receiving a report from Respondent indicating that on May 31, 2012 he entered into a Final Order of Indefinite Restriction from the Kentucky Medical Board (KMB).

4. In July 2011, the KMB received an anonymous grievance alleging that Central Kentucky Bariatric and Pain Management, where Respondent was employed, was operating as a "pill mill," charging patients $450.000 for prescriptions that local pharmacists were refusing to fill. In September 2011, a pharmacist consultant with the Kentucky Cabinet for Health and Family Services reported to the KMB that after reviewing Respondent's Kentucky

All Schedule Prescription Electronic Reporting profile, several concerns were noted including long-term use of one or more controlled substances patients traveling long distances to obtain medications, and family members receiving the same or similar controlled substances prescriptions.

5. In April 2012, a KMB consultant reviewed 17 of Respondent's patient charts and found that he departed from, or failed to conform to, acceptable and prevailing medical practices. Specifically, the consultant noted that in virtually all cases, treatment was the same and involved a prescription for short-acting oxycodone in 15 and 30mg doses usually in combination with Valium; there was no evidence of ongoing physical exams.

6. As a result of the KMB's investigation, Respondent accepted a Final Order of Indefinite Restriction from KMB, effective May 31, 2012. The Order restricts Respondent to the practice of anesthesiology in a perioperative practice environment and only permits him to dispense or otherwise professionally utilize controlled substances on patients undergoing surgical or diagnostic procedures. The Order also requires Respondent to pay a fine in the amount of $10,000.00.

7. On December 19, 2012, Respondent tendered his resignation to the Massachusetts Board of Registration of Medicine ("Massachusetts Board"). In its order accepting the resignation ("Massachusetts Resignation and Order"), the Massachusetts Board required Respondent to provide a complete copy of the Resignation and Order within 10 days to "the state licensing boards of all states in which he has any kind of license to practice medicine." The Arizona Medical Board never received a copy of the Massachusetts Resignation and Order from Respondent.

8. On March 19, 2013, the United States Drug Enforcement Agency ("DEA") issued a Memorandum of Agreement in which Respondent agreed to restrict his practice to anesthesiology in a perioperative practice environment and to only dispense or utilize controlled substances on patients undergoing surgical/diagnostic procedures.

9. The Arizona Medical Board obtained the 17 patient charts from Kentucky and selected five cases for a quality of care review by a Medical Consultant (MC). The MC identified deviations from the standard of care in all five cases as well as medical recordkeeping issues.

10. The MC observed that Respondent instituted high dose narcotics for patients LP, LC, and ET without verification that the patients were tolerant to the doses, as there was no documentation that he reviewed past medical records of the previous prescriber to verify the dose. The MC noted that Respondent initiated high dose benzodiazepine as well for patients LC and ET with no justification for the medication or the dosage. In the case of patient AB, the MC noted that eventually one past medical record was reviewed, which was an MRI report that demonstrated no significant pathology to warrant high dose narcotic medication. Despite this, the MC observed that medications were continued and escalated.

11. The MC further observed that the targeted physical exam for patients AB, TC, LP, and LC was inadequate, and that subsequent physical exams were essentially non-existent. In terms of ongoing monitoring for compliance, the MC noted that in the cases of AB, LP, and ET, there is documentation that these patients took more narcotic than directed, yet there is no documentation of counseling the patient regarding the dangers of non-compliant drug taking behavior. In the case of LC, there was a telephonic allegation of

"shooting up" and selling pills in the notation of an appointment on June 3, 2011; however, the subsequent four consecutive office notes do not address this or document an examination for needle tracks.

12. The standard of care prior to prescribing long-term opioid medications for chronic non-malignant pain requires a physician to perform an appropriate evaluation of the pain problem including a pain history, targeted physical exam, review of past medical records and risk assessment.

13. Respondent deviated from the standard of care by initiating high dose narcotic medication without verification that the patients were tolerant to the doses, without reviewing past medical records, and performing an inadequate physical exam.

14. The standard of care requires a physician to have an individualized diagnostic evaluation and treatment plan including consideration of a multidisciplinary approach.

15. Respondent deviated from the standard of care by failing to consider a multidisciplinary approach for patient TC.

16. The standard of care when controlled substances with the potential for abuse are prescribed for chronic non-malignant pain requires a physician to monitor for efficacy, adverse effects, and problems suggestive of noncompliance and/or aberrant drug seeking.

17. Respondent deviated from the standard of care by failing to address LC's reported non-compliant drug taking behavior.

18. Respondent's conduct had the potential to cause an accidental overdose, based upon his failure to ensure that patients were opioid tolerant prior to instituting high dose narcotic, as well as to the concomitant introduction of high dose narcotic and high dose

benzodiazepine. Accidental overdose in turn could have resulted in aspiration, coma, brain damage, or death.

CONCLUSIONS OF LAW

1. The Arizona Medical Board ("Board") possesses jurisdiction over the subject matter hereof and over Respondent.

2. The conduct and circumstances described above constitute unprofessional conduct pursuant to A.R.S. §32-1401(27)(e)("[f]ailing or refusing to maintain adequate records on a patient.").

3. The conduct and circumstances described above constitute unprofessional conduct pursuant to A.R.S. §32-1401(27)(o) ("[a]ction that is taken against a doctor of medicine by another licensing or regulatory jurisdiction due to that doctor's mental or physical inability to engage safely in the practice of medicine, the doctor's medical incompetence or for unprofessional conduct as defined by that jurisdiction and that corresponds directly or indirectly to an act of unprofessional conduct prescribed by this paragraph. The action taken my include refusing, denying, revoking or suspending a license by that jurisdiction or a surrendering of a license to that jurisdiction otherwise limiting, restricting or monitoring a licensee by that jurisdiction or place a licensee on probation by that jurisdiction.")

4. The conduct and circumstances described above constitute unprofessional conduct pursuant to A.R.S. §32-1401(27)(q) ("[a]ny conduct or practice that is or might be harmful or dangerous to the health of the patient or the public.").

ORDER

IT IS HEREBY ORDERED THAT:

1. Respondent is issued a Letter of Reprimand.

2. Respondent is placed on probation for **two years** with the following terms and conditions:

a. For a period of two years, Respondent is prohibited from prescribing any Controlled Substances, and may only dispense or utilize Controlled Substances on patients undergoing surgical/diagnostic procedures.

b. Respondent shall obtain 15-20 hours of Board Staff pre-approved Category I Continuing Medical Education (CME) course in opioid prescribing prior to the termination of the practice restriction. Prior to commencement Respondent shall submit his request for CME to the Monitor for pre-approval. Upon completion of the CME, Respondent shall provide Board Staff with satisfactory proof of attendance. The CME hours shall be in addition to the hours required for the biennial renewal of medical license.

c. For as long as Respondent has an active license issued by the Board to engage in the practice of medicine, Respondent shall concurrently notify the Board in writing that Respondent has applied to the DEA for a DEA registration lifting any and all of the restrictions currently in place. Respondent shall immediately notify the Board in writing that the DEA has lifted some or all of the DEA restrictions currently in place.

d. Respondent shall within 30 days of the issuance of a DEA registration that lifts some or all of the current restrictions in place enter into a contract with a Board

preapproved monitoring company(" Monitor") to provide all monitoring services. Respondent shall bear all costs of monitoring requirements and services.

e. Monitor shall conduct chart reviews once every three months for a period of two years, commencing the effective date of the contract with the Monitor.

f. Based upon the chart reviews, the Board retains jurisdiction to take additional disciplinary or remedial action.

DATED AND EFFECTIVE this 10th day of June, 2013.

ARIZONA MEDICAL BOARD

By _____
Lisa S. Wynn
Executive Director

CONSENT TO ENTRY OF ORDER

1. Respondent has read and understands this Consent Agreement and the stipulated Findings of Fact, Conclusions of law and Order ("Order"). Respondent acknowledges he has the right to consult with legal counsel regarding this matter.

2. Respondent acknowledges and agrees that this Order is entered into freely and voluntarily and that no promise was made or coercion used to induce such entry.

3. By consent to this Order, Respondent voluntarily relinquishes any rights to a hearing or judicial review in state or federal court on the matters alleged, or to challenge this Order in its entirety as issued by the Board, and waives any other cause of action related thereto or arising from said Order.

4. The Order is not effective until approved by the Board and signed by its Executive Director.

5. Respondent consents to the entry of the order set forth above as a compromise of a disputed matter between Respondent and the Board, and does so only for the purpose of terminating the disputed matter by agreement. Respondent acknowledges it is the Board's position that, if this matter proceeded to formal hearing, the Board could establish sufficient evidence to support a conclusion that certain aspects of Respondent's conduct constitute unprofessional conduct or render him unable to safely engage in the practice of medicine. Respondent agrees not to contest the validity of the Findings of Fact and Conclusions of Law contained in the Order in present or future administrative proceedings before the Board (or any other state agency in the State of Arizona), concerning the denial or issuance of any license or registration required by the state to engage in the practice or any business or profession. Upon signing this agreement, and returning this document (or a copy thereof) to the Board's Executive Director, Respondent may not revoke the consent to the entry of the Order. Respondent may not make any modifications to the document. Any modifications to this original document are ineffective and void unless mutually approved by the parties.

6. Upon signing this agreement, and returning this document (or a copy thereof) to the Board's Executive Director, Respondent may not revoke the consent to the entry of the Order. Respondent may not make any modifications to the document. Any modifications to this original document are ineffective and void unless mutually approved by the parties.

7. This order is a public record that will be publicly disseminated at a formal disciplinary action of the Board and will be reported to the National Practitioner's Data Bank and on the Board's web site as a disciplinary action.

8. If any part of the Order is later declared void or otherwise unenforceable, the remainder of the Order in its entirely shall remain in force and effect.

9. If the Board does not adopt this Order, Respondent will not assert as a defense that the Board's consideration of the Order constitutes bias, prejudice, prejudgment or other similar defense.

10. Any violation of this Order constitutes unprofessional conduct and may result in disciplinary action. A.R.S. §32-1401(27)(r) ("[v]iolating a formal order, probation, consent agreement or stipulation issued or entered into by the board or its executive director under this chapter") and 32-1451.

11. ***Respondent has read and understands the conditions of probation.***

A. Schold MD

Alan C. Schold, M.D.

DATED: 4 June 13

EXECUTED COPY of the foregoing mailed
this 10th day of June, 2013 to:

Stephen W. Myers, Esq.
Myers & Jenkins, P.C.
One East Camelback Road, Suite 500
Phoenix, Arizona 85012
ATTY OF RECORD

ORIGINAL of the foregoing filed
this 10th day of June, 2013 to:

Arizona Medical Board
9545 East Doubletree Ranch Road
Scottsdale, Arizona 85258

Arizona Medical Board Staff